

V. REMARKS

Applicant expresses his appreciation for the Examiner's withdrawal of his assertion that claims 1-9 of this application conflict with claims 1 and 2 of co-pending Application No. 10/697,974 (FP03-0368-00US-AR; SHO-0047).

Claims 1-9 are rejected under 35 USC 103 (a) as being unpatentable over Takemoto et al. (U.S. Patent No. 5,655,965). The rejection is respectfully traversed.

Takemoto teaches an interconnect device for electrically coupling a test instrument and a circuit board having a first portion of a ball grid array connector mounted thereon. The interconnect device includes a pin header and a second portion of the ball grid array. The second portion is mounted on a pin support member and includes a plurality of electrically conductive contact members with each being electrically coupled to a respective terminal pin of the pin header. The interconnect device also includes a circuit substrate having a plurality of electrical connection points formed on a surface thereof and being adapted to be electrically coupled to the test instrument. A socket receptacle is mounted on the circuit substrate and has a plurality of pin receptacles adapted to removably receive a respective one of the terminal pins and being electrically coupled to a respective electrical connection point.

In rejecting claims under 35 U.S.C. 103, the United States Patent and Trademark Office bears the initial burden of presenting a *prima facie* case of obviousness. Only if that burden is met, does the burden of coming forward with evidence or argument shift to the applicant. "A *prima facie* case of obviousness is established if the teachings from the prior art itself would appear to have suggested the claimed subject matter to a person of ordinary skill in the art." In re Bell, 991 F.2d 781, 782, 26 U.S.P.Q.2d 1529, 1531 (Fed. Cir. 1993) quoting In re Rinehart, 531 F.2d 1048, 1051, 189 U.S.P.Q. 143, 147 (CCPA 1776). The mere fact that the prior art *may* be modified in the manner suggested by the Examiner neither makes the

modification *prima facie* obvious or obvious unless the prior art suggested the desirability of the modification.

Claim 1 is directed to a display device provided in a gaming machine. Claim 1 recites that a pitch P between pixel units, each of which is formed by arranging each kind of a plurality of kinds of pixel electrodes which display predetermined colors respectively, and a distance d from the display device to a player in a normal game posture satisfy a relationship of: $P < \tan(\pi/180/35) \times d$.

Claim 2 is directed to a display device provided in a gaming machine such as a slot machine or a pachinko machine. Claim 2 recites that a pitch P between pixel units, each of which is formed by arranging each kind of a plurality of kinds of pixel electrodes which display predetermined colors respectively, a distance d from the display device to a player in a normal game posture, and a correction value α satisfy a relationship of: $P = \tan(\pi/180/35) \times d/2 \times (1 + \alpha)$ where the correction value α is ± 0.2 .

Claim 5 is directed to a gaming machine such as a slot machine or a pachinko machine that includes a display unit constituted by arranging in matrix a plurality of kinds of pixel electrodes that display predetermined colors respectively. Claim 5 recites that, in the display unit, a pitch P between pixel units, each of which is formed by arranging each kind of a plurality of kinds of pixel electrodes which display predetermined colors respectively, and a distance d from the display device to a player in a normal game posture satisfy a relationship of: $P < \tan(\pi/180/35) \times d$.

Claim 6 is directed to a gaming machine such as a slot machine or a pachinko machine that includes a display unit constituted by arranging in matrix a plurality of kinds of pixel electrodes that display predetermined colors respectively. Claim 6 recites that, in the display unit, a pitch P between pixel units, each of which is formed by arranging each kind of a plurality of kinds of pixel electrodes which display predetermined colors respectively, a distance d from the display device to a player in

a normal game posture and a correction value α satisfy a relationship of: $P = \tan(\pi/180/35) \times d/2 \times (1 + \alpha)$ where the correction value α is ± 0.2 .

It is respectfully submitted that there must be a basis in the art for combining or modifying references. Obviousness cannot be established by combining the teachings of the prior art to produce the claimed invention, absent some teaching, suggestion or incentive supporting the combination. ACS Hospital Systems, Inc. v. Montefiore Hospital, 732 F.2d 1572, 1577, 221 U.S.P.Q. 929, 933 (Fed. Cir. 1984). As admitted in the Office Action, the applied art fails to disclose specific relationships between pitch and distance using correction values. To cure these deficiencies, the Examiner merely concludes that it would have been obvious to one of ordinary skill in the art at the time of the invention to have included a distance "d" from the display device to a player in a normal game posture and a correction value "a" to satisfy a relationship of:

$$P = \tan(\pi/180/35) \times d/2 \times (1 + \alpha).$$

However, there is no teaching or suggestion in the applied art regarding the distance "d", a correction value "a" or the formula itself recited immediately above. Furthermore, this formula is recited only in independent claims 2 and 5. The United States Patent and Trademark Office completely ignores the formula, $P < \tan(\pi/180/35) \times d$, recited in independent claims 1 and 5. Thus, the United States Patent and Trademark Office fails to address the claimed features in independent claims 1 and 5.

It is respectfully submitted that one of ordinary skill in the art would not be motivated to modify the features of the invention in the applied art because the applied-art invention is completely devoid of the features of the claimed invention. More specifically, the applied-art invention is completely devoid of the features recited in claims 1-9 of the claimed invention. Therefore, there is no reasonable justification for one of ordinary skill in the art to modify the features of the applied art.

Further, it is respectfully submitted that the screen display type slot machine with a seemingly flowing condition of moving symbols disclosed in the applied art is non analogous art. For instance, there is no teaching or suggestion in the applied art of "a pitch P between pixel units", "pixel electrodes" and "a player in a normal game posture" as recited in claims 1, 2, 5 and 6. As mentioned above, there is no teaching or suggestion in the applied art of "a correction value α " as recited in claims 2 and 6. Thus, it is respectfully submitted that a skilled artisan would not look to the applied art to find these features because these features are absent in the applied art and, thus, the applied art is non analogous.

Furthermore, it is respectfully submitted that the Examiner fails to consider all of the claimed features of the invention, especially those that are missing from the prior art such as those mentioned immediately above. When evaluating a claim for determining obviousness, all limitations of the claim must be considered. Under 35 U. S. C. 103, it provides that:

a patent may not be obtained if the differences between the subject matter sought to be patented and the prior art are such that *the subject matter as a whole* would have been obvious at the time the invention was made to a person having ordinary skill in the art to which the subject matter pertains.

The United States Patent and Trademark Office merely concludes that the claimed invention would have been obvious to one of ordinary skill in the art by modifying a generic slot machine with a LCD of Takemoto to arrive at the claimed invention. Because the applied art fails to teach or suggest the features of the claims and particularly independent claims 1, 2, 5 and 6, it is respectfully submitted that one of ordinary skill in the art would not be motivated to modify the features of the applied art because the applied art is devoid of such features.

Under 35 U.S.C. §103(a), a patent may not be obtained though the invention is not identically disclosed or described. . . .if the differences between the subject matter sought to be patented and the prior art are such that the *subject matter as a whole* would have been obvious at the time the invention was made to a person having ordinary skill in the art. . . .

In re Fine, 837 F.2d 1071, 5 USPQ 2d 1596 (Fed. Cir. 1988), the Federal Circuit held that a reference did not render the claimed combination *prima facie* because the Examiner ignored a material claimed temperature limitation which was absent from the reference. By analogy, the Examiner has ignored the material claimed features of the invention recited above in independent claims 1, 2, 5 and 6. The Federal Circuit in this case held want of *prima facie* obviousness in that “the mere absence [from the reference] of an explicit requirement [of the claim] cannot reasonably be construed as an affirmative statement that the requirement is in the reference. In re Evanega, 829 F.2d 1110, 4 USPQ2d 1249 (Fed. Cir. 1987).

Furthermore, it is respectfully submitted that the results and advantages are a part of the claimed invention as a whole. It is a basic tenet of patent law that the U.S. Patent and Trademark Office is not permitted to ignore the results and advantages produced by claimed subject matter, of which the prior art is devoid, simply because the claimed limitations are similar to that otherwise barren prior art. Diversitech Corp. v. Century Steps, Inc., 850 F.2d 675, 7 USPQ2d 1315 (Fed. Cir. 1988); In re Chupp, 816 F.2d 643, 2 USPQ2d 1437 (Fed. Cir. 1987); Formson v. Advance Offset Plate, 755 F.2d 1549, 225 USPQ 26 (Fed. Cir. 1985).

It is respectfully submitted that the claimed features of the invention are not even relevant to the applied art. Specifically, on page 2 in the specification, it states:

[0005] However, in a liquid crystal monitor, there is a problem that, although a pixel also becomes large as an area of the liquid crystal monitor rises, an image becomes coarse as the pixel becomes large, and the resolution of the image is lowered. On the other hand, there

arises a problem that an aperture ratio (a ratio of the gross area of one pixel to an area which a drive element effectively contributes to displaying in a display screen) of the liquid crystal drive element becomes low and the screen becomes dark and poorly visible. Moreover, since a player may change his/her game posture according to the development of a game, it becomes necessary to attain a high resolution of an image in consideration of the game posture.

[0006] Then, this invention is made in view of the above problems, and provides a display device and a gaming machine which can make pixels of the display device fine and can achieve the improvement in image quality in the display device, with which the gaming machine such as a slot machine or a pachinko machine is equipped, with taking a change of a player's game posture into consideration.

It is respectfully submitted that nothing disclosed in the applied art teaches or even suggests that the applied art resolves the problems in the prior art discussed in the Applicant's specification. It is respectfully submitted that the United States Patent and Trademark Office ignores these advantages of the claimed invention.

Additionally, it is respectfully submitted that the motivation presented by the United States Patent and Trademark Office is derived from the claimed invention, not the applied art. Based upon the benefits of the claimed invention, the United States Patent and Trademark Office improperly establishes motivation because it is found in the claimed invention and not in the applied art. The United States Patent and Trademark Office must show motivation to modify the applied art in view of the applied art itself, not by showing the benefits of the claimed invention itself.

MPEP 2143.01 states that the prior art must suggest the desirability of the claimed invention. Obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references

themselves or in the knowledge generally available to one of ordinary skill in the art. In re Fine, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988); In re Jones, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992).

Furthermore, broad conclusory statements regarding the teaching of multiple references, standing alone, are not 'evidence.'" Id., 50 USPQ2d 1576 at 1617 (citing McElmurry v. Arkansas Power & Light Co., 995 f.2d 1576, 1578, 27 USPQ2d 1129, 1131 (Fed. Cir. 1993) and In re Sichert, 566 F.2d 1154, 1164, 196 USPQ 209, 217 (CCPA 1977).

Thus, it is respectfully submitted that the United States Patent and Trademark Office fails to properly establish any motivation for one of ordinary skill in the art to modify the features of the applied art to arrive at the claimed invention. As mentioned above, the features of the claimed invention are absent in the prior art. To the contrary, the motivation asserted by the United States Patent and Trademark Office is actually found in the claimed invention.

The conclusion that the claimed subject matter is obvious must be supported by evidence, as shown by some objective teaching in the prior art or by knowledge generally available to one of ordinary skill in the art that would have led the individual to combine the relevant teachings of the reference to arrive at the claimed invention. See In re Fine, 837 F.2d 1071, 1074, 5 USPQ2d 1596, 1598 (Fed. Cir. 1988). The Examiner may not, because of doubt that the invention is patentable, resort to speculation, unfounded assumptions or hindsight reconstruction to supply deficiencies in the factual basis for the rejection. See In re Warner, 379 F.2d 1011, 1017, 154 USPQ 173, 177 (CCPA 1967), cert. denied, 389 U.S. 1057 (1968).

It is respectfully submitted that the Examiner's position is merely hindsight reconstruction and fails to provide any objective evidence whatsoever in the applied art to support his position.

The Federal Circuit Court of Appeals has consistently held that when a §103 rejection is based upon a modification of a reference that destroys the intent, purpose or function of the invention disclosed in the reference, such a proposed modification is not proper and a *prima facie* case of obviousness cannot be properly made. In re Gordon, 733 F.2d 900, 221 USPQ 1125 (Fed. Cir. 1984). It is respectfully submitted that the Examiner has destroyed the function of the invention disclosed in the reference and has attempted to apply the destroyed invention to the claimed invention in order to deny patentability of the Applicant's invention.

Claims 3 and 4 depend from claim 1 and includes all of the features of claim 1. Thus, it is respectfully submitted that the dependent claims are allowable at least for the reason claim 1 is allowable as well as for the features they recite. For instance, claim 4 recites that one pixel is constituted by a pair of the pixel units that are adjacent and information signals for one pixel are supplied in the same timing to pixel electrodes for the same color that are contained in the pair of pixel units respectively.

Claims 7-9 depend from claim 5 and includes all of the features of claim 5. Thus, it is respectfully submitted that the dependent claims are allowable at least for the reason claim 5 is allowable as well as for the features they recite. For instance, claim 9 recites that one pixel is constituted by a pair of the pixel units that are adjacent and information signals for one pixel are supplied in the same timing to pixel electrodes for the same color that are contained in the pair of pixel units respectively.

Withdrawal of the rejection is respectfully requested.

Further, Applicants assert that there are also reasons other than those set forth above why the pending claims are patentable. Applicants hereby reserve the right to submit those other reasons and to argue for the patentability of claims not explicitly addressed herein in future papers.

In view of the foregoing, reconsideration of the application and allowance of

the pending claims are respectfully requested. Should the Examiner believe anything further is desirable in order to place the application in even better condition for allowance, the Examiner is invited to contact Applicants' representative at the telephone number listed below.

Should additional fees be necessary in connection with the filing of this paper or if a Petition for Extension of Time is required for timely acceptance of the same, the Commissioner is hereby authorized to charge Deposit Account No. 18-0013 for any such fees and Applicant(s) hereby petition for such extension of time.

Respectfully submitted,

By:


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